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**07 CIV 7457**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**JUDGE BAER**

----- X  
MODINE MANUFACTURING COMPANY, :

Plaintiff, : Index No.

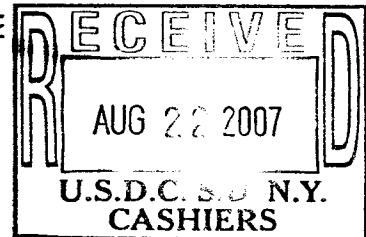
- Against -

EXPEDITORS INTERNATIONAL GmbH  
(STR) and DELTA AIR LINES, INC., :

Defendants. :

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Complaint



The Plaintiff, MODINE MANUFACTURING COMPANY, and through its attorneys, Hill Rivkins & Hayden LLP, complaining of the above-named defendants, alleges upon information and belief:

**FIRST:** This Court has jurisdiction pursuant to 49 U.S.C. § 1502, in that this was an international air carriage of cargo departing from Stuttgart, Germany, and arriving in St. Louis, Missouri.

**SECOND:** At and during all times hereinafter mentioned, Plaintiff, MODINE MANUFACTURING COMPANY ("MODINE"), was and now is a corporation or other business entity organized

and existing by virtue of the laws of one of the States of the United States, with an office and place of business at 221 Sunset Drive, Camdenton, MO 65020.

**THIRD:** At and during all times hereinafter mentioned, Defendant, EXPEDITORS INTERNATIONAL GmbH (STR) ("EXPEDITORS"), was and now is a corporation or other business entity organized and existing by virtue of the laws of Germany with an office and place of business in care of Expeditors International of Washington, Inc., 245 Roger Avenue, Inwood, New York 11096 and was and now is a common carrier, warehouseman and/or bailee.

**FOURTH:** At and during all times hereinafter mentioned, Defendant, DELTA AIR LINES, INC. ("DELTA"), was and now is a corporation or other business entity organized and existing by virtue of the laws of one of the States of the United States with an office and place of business at Newark International Airport, Terminal B, Suite 16, Newark, New Jersey 07114 and was and now is a common carrier, warehouseman and/or bailee.

**FIFTH:** On or about September 27, 2005, there was delivered to the Defendants in good order and condition a shipment of machine equipment (radiators), suitable in every respect for the intended transportation which Defendants received, accepted and agreed to transport and/or store for certain consideration and issued Expeditors' House Air Waybill #4570086882 and Delta's Master Air Waybill 006-43867040.

**SIXTH:**                Thereafter, the Defendants failed to redeliver the shipment in the same good order and condition.

**SEVENTH:**            Plaintiff was the shipper, consignee or owner of said shipment and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

**EIGHTH:**            By reason of the premises, the Defendants were negligent and careless in their handling of Plaintiff's cargo, violated their duties and obligations as common carriers and bailees of the cargo, and were otherwise at fault.

**NINTH:**            Plaintiff has duly performed all duties and obligations on its part to be performed.

**TENTH:**            By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$80,000.00.

**W H E R E F O R E,**    Plaintiff prays:

1.    That a decree may be entered in favor of Plaintiff against Defendants for the amount of Plaintiff's damages, together with interest and costs.

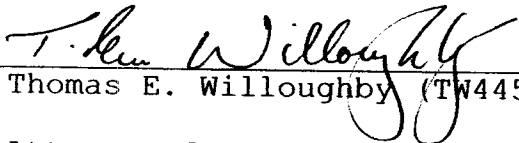
2.    Plaintiff further prays for such other, further and

different relief as to this Court may deem just and proper in the premises.

Dated: New York, New York  
August 21, 2007

Respectfully submitted,

HILL RIVKINS & HAYDEN LLP  
Attorneys for Plaintiff  
MODINE MANUFACTURING COMPANY

By:   
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